S.B.Civil Writ Petition NO.1808/2003

Bhagirath & Ors.

vs

State of Rajasthan & Ors.

DATE OF ORDER : - 25.1.2005

HON'BLE MR. PRAKASH TATIA,J.

Mr. J.R.Beniwal, for the petitioner.
Mr. Shyam Ladrecha, Addl.GA, for the respondent.

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Heard learned counsel for the parties.

The grievance of the petitioner in this writ petition is only that the petitioners' application, which has been filed under Section 18 of the Land Acquisition Act before the Land Acquisition Officer has not been decided by the Land Acquisition Officer, therefore, the direction may be issued to the respondent no.2 to pass appropriate order on the application in accordance with law.

Learned counsel for the respondent submitted that the application has been filed after inordinate delay. Learned counsel for the respondent also tried to contest the claim of the petitioner on merit by saying that the land was surveyed and at that time there was no

water tank available on the land. Therefore, the petitioners are not entitled for any compensation for the said tank.

Since only prayer of the petitioners is for directing the respondent no.2 to decide the application of the petitioner filed under Section 18 of the Land Acquisition Act, this Court deems it proper to issue direction to the respondent no.2 to pass appropriate order on the application of the petitioners in accordance with law. The merit of the claim cannot be considered either by this court or even by the Land Acquisition Officer as after passing the award, the matter can be referred to the civil court under Section 18 for determination of the issues, which can be determined under Section 18.

In view of the above, the writ petition of the petitioner deserves to be allowed, hence, allowed. The respondent no.2 is directed to decide the reference application submitted by the petitioners under Section 18 of the Land Acquisition Act within a period of one month from the date of placing the copy of this order before him by the petitioner in accordance with law after hearing both the parties.

(Prakash Tatia), J.

c.p.goyal/-